

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 04-1411

United States of America,

Appellee,

v.

Scott W. Graning,

Appellant.

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* Appeal from the United States
* District Court for the
* District of Nebraska
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* [Unpublished]
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Submitted: November 26, 2004

Filed: December 14, 2004

Before RILEY, McMILLIAN, and GRUENDER, Circuit Judges.

PER CURIAM.

Scott Graning appeals from the final judgment entered in the District Court¹ for the District of Nebraska upon his guilty plea, pursuant to a written plea agreement, to being a felon in possession of a firearm in violation of 18 U.S.C. §§ 922(g) and 924(a)(2). The district court sentenced Graning to 57 months imprisonment and 3 years supervised release. On appeal, his counsel has moved to withdraw and filed a brief under Anders v. California, 386 U.S. 738 (1967).

¹The Honorable Richard G. Kopf, Chief Judge, United States District Court for the District of Nebraska.

Construing the Anders brief as challenging the length of the sentence, we find no error. Graning's sentence falls within § 924(a)(2)'s 10-year maximum and is at the bottom of the applicable Guidelines range of 57-71 months. See 18 U.S.C. § 3742(a); United States v. Smotherman, 326 F.3d 988, 989 (8th Cir.) (per curiam), cert. denied, 540 U.S. 912 (2003). Having found no nonfrivolous issues after reviewing the record independently under Penson v. Ohio, 488 U.S. 75 (1988), we affirm. We also grant counsel's motion to withdraw.
